

OCA 86-3856
25 November 1986

MEMORANDUM FOR: Director, Intelligence Community Staff

FROM: Director of Congressional Affairs

SUBJECT: Revised Legislative Program for the 100th Congress: Request
for Transmission to Office of Management & Budget (OMB)

Attached is a copy of the revised "Central Intelligence Agency and Intelligence Community Proposed Legislative Program for the First Session of the 100th Congress." In accordance with the provisions of OMB Circular A-19, please transmit it to the Office of Management and Budget.

As you may know, since transmission of the original version to your office on September 25, 1986, the Director has agreed that the Program should be revised to add certain items which were included in the Presidential Report on Counterintelligence and Countermeasures as recently approved by the President. These new items are: Clarification of Security Authorities (#100/1 - 22); Enhancing the Value of Security Questionnaires (#100/1 - 23); Protection of Technical Data with Space Applications (#100/1 - 24); Tort Reform (#100/1 - 25); Sanctions for Espionage (#100/1 - 26); and DoD Use of the Polygraph for Counterintelligence Purposes (#100/1 - 27).

Since the transmission of the original version to your office, the President signed into law the Intelligence Authorization Act for Fiscal Year 1987 (Public Law No. 99-569). Accordingly, those items which were in the original version of the Program contingent upon Congressional action on the FY87 bill (asterisked items) are deleted from this revised version and the remaining items renumbered accordingly.



David D. Griès

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Attachment
as stated

25 November 1986

CENTRAL INTELLIGENCE AGENCY
AND INTELLIGENCE COMMUNITY
PROPOSED LEGISLATIVE PROGRAM
FOR THE FIRST SESSION
OF THE 100th CONGRESS

LEGISLATIVE PROPOSALS

100/1 - 1:

Fiscal Year 1988 Intelligence
Authorization Act

The Director of Central Intelligence will submit to the Office of Management and Budget for clearance a proposed Fiscal Year 1988 Intelligence Authorization Act for transmittal to the Congress.

100/1 - 2:

Protection of Intelligence
Information

The Director of Central Intelligence may propose legislation to provide criminal penalties for the unauthorized disclosure of classified information by federal employees, by others having authorized access to it and by those who acquire and disclose it without authorized access. The DCI may support this proposal as contained in other legislation.

100/1 - 3:

Right To Financial Privacy Act
Amendment

The Director of Central Intelligence (DCI) may propose legislation to clarify the Agency's authority to examine the financial records of employees where grounds exist to believe they may be vulnerable to a counterintelligence threat. The DCI may also support extensions of any such authority to other agencies in the Intelligence Community as appropriate.

100/1 - 4:

Department of Defense
Proprietaries

At the request of the Department of Defense, the Director of Central Intelligence will include in the proposed Fiscal Year 1988 Intelligence Authorization Act legislation which would grant the Department of Defense authority to establish and operate corporations or other business entities in support of authorized and appropriately coordinated intelligence activities and may support this proposal as contained in other legislation.

100/1 - 5

Conformance of Certain Provisions
of CIARDS with P.L. 98-615

The Director of Central Intelligence may propose legislation to amend the law governing the Central Intelligence Agency Retirement and Disability System (CIARDS) so as to incorporate certain former spouse entitlements which were made available to former spouses or participants in the Civil Service Retirement System by passage of the Civil Service Spouse Equity Act of 1984.

100/1 - 6:

FOIA Relief for FBI

In addition to the relief from the provisions of the Freedom of Information Act (FOIA) currently being sought by the Federal Bureau of Investigation (FBI) and the Department of Justice, the Director of Central Intelligence, at FBI's request, may concur in an amendment to the FOIA which would exempt FBI's counterintelligence files from the provisions of the FOIA that require search, review, and publication, provided those files are not older than five years.

100/1 - 7:

Access by FBI to Tax Records
for Counterintelligence Purposes

The Director of Central Intelligence may include in the proposed Fiscal Year 1988 Intelligence Authorization Act, at the request of the Federal Bureau of Investigation (FBI), legislation that would authorize the FBI, upon approval by the Attorney General or his designee, to receive tax return and taxpayer information regarding individuals that are the subject of a counterintelligence investigation.

100/1 - 8:

Clarification of CIA/NSA/DIA Drug &
Alcohol Abuse Authorities

In light of the uncertainty created by recent case law concerning alcohol and drug abuse, the Director of Central Intelligence may propose or support legislation to ensure that the Central Intelligence Agency, the National Security Agency and the Defense Intelligence Agency are able to continue to deal with security problems in the area of alcohol and drug abuse without regard to the provisions of any other law, rule, or regulation.

100/1 - 9:

Congressional Security Survey

The Director of Central Intelligence (DCI) may support or propose legislation to authorize the provision of Executive Branch assistance to the Congress in conducting a comprehensive assessment of Congressional personnel and physical security needs.

100/1 - 10:

Foreign Agents Training Act
Amendment

The Director of Central Intelligence may include in the proposed Fiscal Year 1988

Intelligence Authorization Act a proposal to amend the Foreign Agent Training Act to make clear that individuals who have received training in espionage by a foreign government, but who have failed to register as required by that Act, cannot subsequently cure the violation through registration. The proposal would also increase the penalty for failing to register as required by the Act.

100/1 - 11:

Repeal of Outdated, Unnecessary or Burdensome Reporting Requirements and Programmatic Restrictions

The Director of Central Intelligence may include in the proposed Fiscal Year 1988 Intelligence Authorization Act, and/or in the materials transmitted to the Congress in connection therewith, provisions designed to repeal outdated, unnecessary or burdensome reporting requirements and programmatic restrictions.

100/1 - 12

Foreign Cryptography Control

At the request of the National Security Agency (NSA), the Director of Central Intelligence may propose or support legislation granting the Secretary of Defense and the Director of NSA the authority to prevent the introduction of foreign-manufactured cryptography into governmental inventories and to bar foreign companies from accessing governmental cryptography.

100/1 - 13

Tax Exemption for Allowances Paid to Certain NSA Employees

At the request of the National Security Agency (NSA), the Director of Central Intelligence may include in the proposed Fiscal Year 1988 Intelligence Authorization Act an

amendment to the Internal Revenue Code to exempt from taxation allowances paid to certain NSA employees under the NSA Act of 1959. Currently, these same allowances as paid to employees of the Foreign Service and the Central Intelligence Agency are tax exempt.

100/1 - 14

Retroactive Pay for Certain NSA Employees

At the request of the National Security Agency (NSA), the Director of Central Intelligence may include in the proposed Fiscal Year 1988 Intelligence Authorization Act an amendment to the NSA Act of 1959 to authorize the award to otherwise eligible NSA employees of the retroactive pay benefits awarded to certain non-NSA employees by virtue of the decision in Squillacoate v. United States, 739 F.2d 1208 (7th Cir. 1984), cert. denied, 105 S.C. 2021 (1985).

100/1 - 15

Ensuring Continuity of DCI Function

The Director of Central Intelligence (DCI) may propose or support legislation to ensure greater continuity in the exercise of the DCI function when the DCI or the Deputy Director for Central Intelligence are not able to exercise that function.

100/1 - 16

Limited, Intelligence-Related Interlocutory Appeal Authority

The Director of Central Intelligence (DCI) may propose legislation authorizing an interlocutory appeal by the United States in certain cases involving intelligence agencies. The appeal would be allowed from a decision of a United States court on an evidentiary ruling or dispositive motion which would significantly impair intelligence agency authorities.

100/1 - 17:

Equalization of Uniform Allowance
for Certain Foreign National
Employees Employed by the Defense
Intelligence Agency in Embassies
Abroad

The Director of Central Intelligence may, at the request of the Defense Intelligence Agency (DIA), propose legislation to provide the Director, DIA, the authority to pay certain foreign national employees employed by DIA in embassies abroad an annual uniform allowance equivalent to that paid by the Department of State to foreign national employees in similar positions.

100/1 - 18:

Exemption for the Defense
Intelligence Agency (DIA) from
Certain Federal Personnel Data
Reporting Requirements

The Director of Central Intelligence at the request of the Defense Intelligence Agency (DIA), may propose a statutory exemption for DIA from certain routine, unclassified federal personnel data reporting requirements.

100/1 - 19:

Eligibility of Defense Intelligence
Agency Military Attaches and
Civilian Personnel Assigned to
Defense Attache Offices for
Department of Defense Death
Gratuity for Members and Employees
Assigned to Intelligence Duties
Abroad

The Director of Central Intelligence may propose, at the request of the Defense Intelligence Agency, an amendment to Chapter 75 of Title 10 United States Code, to allow surviving dependents of military attaches and civilian personnel supporting such attaches killed while serving in embassies abroad to be eligible for the

current Department of Defense death gratuity available to surviving dependents of members of the Armed Forces and Department of Defense employees killed while assigned to intelligence duties abroad.

100/1 - 20:

Secure Promotions for Certain
Military Intelligence Officers

The Director of Central Intelligence, at the request of the Department of the Army, may propose legislation to establish a method of securely promoting certain U.S. Army military intelligence officers. Currently, these officers are promoted in accordance with an unwritten agreement between the Congress and the Executive Branch. The legislative proposal would establish a viable permanent method for their secure promotion.

100/1 - 21:

Intelligence Identities Protection
Act

The Director of Central Intelligence, at the request of the Department of the Army, may submit legislation to amend the Intelligence Identities Protection Act so as to include within the protection of that Act two classes of Army human intelligence sources who appear to be excluded from coverage of the Act.

100/1 - 22:

Clarification of Security
Authorities

In order to ensure the integrity of security investigations and determinations, the Director of Central Intelligence may include in the proposed Fiscal Year 1988 Intelligence Authorization Act a proposal to clearly establish that the authority of Executive Branch officials to make security clearance and access determinations

is committed to the discretion of Executive Branch officials by law and not subject to administrative or judicial review under the provisions of any statute.

100/1 - 23:

Enhancing the Value of Security Questionnaires

At the request of the Office of Personnel Management, the Director of Central Intelligence may propose or support legislation which would require a person under consideration for a security clearance or access to reimburse the Government for the cost of investigation should it be determined that entries on the personnel security questionnaire were knowingly, falsely made or that material information was purposefully withheld.

100/1 - 24:

Protection of Technical Data with Space Applications

The Director of Central Intelligence may propose or support legislation which would provide the National Aeronautics and Space Administration with authority comparable to that provided the Department of Defense to withhold from public disclosure unclassified technical data with space applications and subject to export control.

100/1 - 25:

Tort Reform

In order to ensure the integrity of security and counterintelligence investigations and decisionmaking, the Director of Central Intelligence may propose or support tort reform legislation which would provide that, in tort actions against Government officials in their personal capacities for official acts, the United States will be substituted in such lawsuits for the individual defendants.

100/1 - 26:

Sanctions for Espionage

The Director of Central Intelligence may propose or support legislation which would permit the death penalty to be imposed for espionage convictions.

100/1 - 27:

DoD Use of The Polygraph for Counterintelligence Purposes

At the request of the Department of Defense (DoD), the Director of Central Intelligence may propose or support legislation which would permit DoD to conduct a permanent counterintelligence polygraph program without an annual numerical ceiling for the conduct of such a program.